

AMENDED IN SENATE JULY 2, 2003
AMENDED IN SENATE JUNE 16, 2003
AMENDED IN ASSEMBLY JUNE 2, 2003
AMENDED IN ASSEMBLY MAY 6, 2003
AMENDED IN ASSEMBLY APRIL 8, 2003
AMENDED IN ASSEMBLY MARCH 25, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 816

Introduced by Assembly Member Reyes
(Principal coauthors: Assembly Members Canciamilla and
Richman)

February 20, 2003

An act to amend Section 80110 of the Water Code, relating to electric power.

LEGISLATIVE COUNSEL'S DIGEST

AB 816, as amended, Reyes. Local publicly owned electric utilities: Public Utilities Commission: direct transactions.

(1) Existing law authorizes the Department of Water Resources to administer existing contracts for the purchase of electric power, and to sell power to retail ~~end-use~~ *end-use* customers and, with specified exceptions, local publicly owned electric utilities, at not more than the department's acquisition costs. Existing law imposes on retail ~~end-use~~ *end-use* customers of electrical corporations and community choice

aggregators nonbypassable charges to repay certain costs of the department and electrical corporations.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, and authorizes the commission to fix just and reasonable rates and charges. Existing law requires the commission to authorize direct transactions between electricity suppliers and ~~end-use~~ *end-use* customers, also known as direct access. Existing law suspends, after a period of time to be determined by the commission, the right of a retail ~~end-use~~ *end-use* customer to acquire electricity from other electric service providers pursuant to direct transactions, until the department no longer supplies electricity under those provisions. Pursuant to these provisions, the commission has instituted a rulemaking proceeding to implement the suspension of direct access to result in a decision and order adopting cost responsibility surcharge mechanisms for municipal departing load.

This bill would require the commission to reinstate the right of retail ~~end-use~~ *end-use* customers with a load requirement of 500 kilowatts or more to acquire electricity from other electric service providers subject to specified conditions. *Retail end-use customers under single ownership would be authorized to aggregate load served by multiple meters, to meet the 500 kilowatt load requirement.* The bill would require the commission, in considering the procurement plan of an electrical corporation, to set the amount of direct access permitted to minimize the potential that the electrical corporation will enter into commitments that the subsequent exercise of direct access will render unnecessary or excessive. The bill would require the commission to adopt rules it determines to be necessary to implement the reinstatement of direct access, including any notice requirements imposed as a condition of direct access, and provisions to ensure the prompt recovery by an electrical corporation of costs it incurs to reinstate and administer direct access. Because a violation of a rule or order of the commission is a crime under existing law, the bill would impose a state-mandated local program by creating a new crime.

This bill would declare the intent of the Legislature to enact legislation that will conform to the decision and order of the commission adopting cost responsibility surcharge mechanisms for municipal departing load, provided that the decision and order will not result in cost shifting to bundled service customers of electrical corporations for recoverable costs reasonably incurred on behalf of departing municipal load.



(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature to enact
2 subsequent legislation that will conform to the decision and order
3 of the Public Utilities Commission adopting cost responsibility
4 surcharge mechanisms for municipal departing load, provided that
5 the decision and order will not result in cost shifting to bundled
6 service customers of ~~of~~ an electrical corporation for recoverable
7 costs reasonably incurred on behalf of departing municipal load.
8 SEC. 2. Section 80110 of the Water Code is amended to read:
9 80110. (a) The department shall retain title to all power sold
10 by it to the retail ~~end-use~~ *end-use* customers. The department shall
11 be entitled to recover, as a revenue requirement, amounts and at the
12 times necessary to enable it to comply with Section 80134, and
13 shall advise the commission as the department determines to be
14 appropriate. Those revenue requirements may also include any
15 advances made to the department hereunder or hereafter for
16 purposes of this division, or from the Department of Water
17 Resources Electric Power Fund, and General Fund moneys
18 expended by the department pursuant to the Governor's State of
19 Emergency Proclamation, dated January 17, 2001. For purposes
20 of this division and except as otherwise provided in this section,
21 the commission's authority as set forth in Section 451 of the Public
22 Utilities Code shall apply, except any just and reasonable review
23 under Section 451 shall be conducted and determined by the
24 department. The commission may enter into an agreement with the
25 department with respect to charges under Section 451 for purposes
26 of this division, and that agreement shall have the force and effect
27 of a financing order adopted in accordance with Article 5.5
28 (commencing with Section 840) of Chapter 4 of Part 1 of Division
29 1 of the Public Utilities Code, as determined by the commission.

1 In no case shall the commission increase the electricity charges in
2 effect on February 1, 2001, for residential customers for existing
3 baseline quantities or usage by those customers of up to 130
4 percent of existing baseline quantities, until the department has
5 recovered the costs of power it has procured for the electrical
6 corporation's retail ~~end-use~~ *end-use* customers as provided in this
7 division.

8 (b) The commission shall reinstate the right of retail ~~end~~
9 *end-use* customers with a load requirement of 500 kilowatts or
10 more to acquire service from other electric service providers
11 pursuant to Article 6 (commencing with Section 360) of Chapter
12 2.3 of Part 1 of Division 1 of the Public Utilities Code, once each
13 of the following conditions are met:

14 (1) The commission has established a cost responsibility
15 surcharge for customers that opt for direct transactions. Each retail
16 ~~end-use~~ *end-use* customer that has purchased power from an
17 electrical corporation on or after February 1, 2001, shall bear a fair
18 share of the department's electricity purchase costs that are
19 recoverable from electrical corporation customers in
20 commission-approved rates including costs described in
21 subdivisions (d), (e), (f), and (g) of Section 366.2.

22 (2) The State of California has issued revenue bonds pursuant
23 to Chapter 2.5 (commencing with Section 80130).

24 (3) The electrical corporations are procuring electricity under
25 procurement plans pursuant to Section 454.5 of the Public Utilities
26 Code.

27 (4) The commission has resolved all ~~outstanding issues~~ *issues*
28 *necessary to reinstate direct transactions* in the direct access phase
29 of commission Rulemaking 02-01-011. *This subdivision does not*
30 *require update proceedings on the direct access cost responsibility*
31 *surcharge to be considered a condition of reinstating the right of*
32 *retail end-use customers to acquire electricity from electric service*
33 *providers.*

34 (5) The commission has adopted rules for the treatment of
35 direct access customers who voluntarily or involuntarily return to
36 electrical corporation bundled service. The rules adopted by the
37 commission shall ensure that electric corporation customers
38 receiving bundled service are indifferent to cost shifting caused by
39 direct access customers returning to bundled service.

1 (c) *Customers receiving service from electric service providers*
2 *on January 1, 2004, shall continue to have the right to obtain*
3 *electricity from electric service providers, and any customer*
4 *exempt from a direct access cost responsibility surcharge on that*
5 *date, shall remain exempt, unless and until that time when, the*
6 *customer returns to bundled utility service and thereafter obtains*
7 *service from an electric service provider.*

8 (d) *Retail end-use customers under single ownership may*
9 *aggregate their load served by multiple meters, to meet the 500*
10 *kilowatt load requirement of subdivision (b). The commission shall*
11 *design a regulatory framework to implement permissible customer*
12 *aggregation pursuant to this subdivision by June 23, 2004.*

13 (e) The department shall have the same rights with respect to
14 the payment by retail ~~end-use~~ end-use customers for power sold by
15 the department as do providers of power to those customers.

16 ~~(d)~~

17 (f) The commission, in considering the procurement plan of an
18 electrical corporation, shall set the amount of direct access
19 permitted to minimize the potential that the electrical corporation
20 will enter into commitments that the subsequent exercise of direct
21 access will render unnecessary or excessive.

22 ~~(e)~~

23 (g) The commission shall adopt rules it determines to be
24 necessary to implement the reinstatement of direct access pursuant
25 to this section, including any notice requirements imposed as a
26 condition of direct access, and provisions to ensure the prompt
27 recovery by an electrical corporation of costs it incurs to reinstate
28 and administer direct access.

29 SEC. 3. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district because in that regard this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within
36 the meaning of Section 6 of Article XIII B of the California
37 Constitution.